

## BEFORE THE DIVISION OF WATER RIGHTS

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| In The Matter Of: <b>Colton Ditch Users:</b><br><br><b>Cody Jenkins</b><br><br><b>RESPONDENT</b> | <b>MEASURING DEVICE NOTICE</b><br><br>SEAA No. 2166<br><br>DISTRIBUTION ACCOUNT: 102969<br><br>WATER RIGHT: 45-122 |
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### I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4, and in accordance with UTAH ADMIN. CODE R. 655-15.

U.C.A. § 73-5-4 states in part :

*(1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, ... shall construct or install and maintain controlling works and a measuring device at:*

- (a) each location where water is diverted from a source; and*
- (b) any other location required by the state engineer.*

*(2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.*

*(3) The state engineer shall approve the design of:*

- (a) the measuring device; and*

*(b) controlling works so that the state engineer or a water commissioner may regulate and lock the works. ...*

*(6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:*

- (a) forbid the use of water until the user complies with the state engineer's requirement; and*
- (b) commence enforcement proceedings authorized by Section 73-2-25.*

### II. STATEMENT OF FACTS

1. Respondent and other owners of the water rights divert water at Colton Ditch within the Ashley Creek Distribution System operated under the direction of the Ashley Creek Water Commissioner appointed by the Utah State Engineer.
2. The Low Pressure Pipe at Colten Ditch doesn't have a properly functioning water measuring device.

3. A properly functioning water meter is typically required on all pipeline diversions. Some meters work much better than others. If a proper meter vault exists in a location where the pipeline is always full with sufficient access to the outside circumference of the pipe to enable the sensors to clamp on the outside of pipe, without any groundwater intrusion, the Division may be willing to assist Respondent with meter selection and installation using equipment that has worked well in past years on similar pipelines.
4. The main requirement is to be able to always properly measure the water diverted, which is an ongoing responsibility each year.
5. Respondent may apportion costs of the water meter to all users of the pipeline according to the amount of their respective water rights within the pipeline.

### III. ACTIONS REQUIRED

1. A suitable and reasonably accurate measuring device must be installed at the Colton Ditch low pressure pipeline diversion. The meter should be located at a proper location where it can accurately measure the water diverted. The meter readings must also be readily accessible and available when needed.
2. **Respondent must install a properly functioning water meter on the Colton Ditch Low Pressure Pipeline on or before May 1, 2020.**

### IV. ADDITIONAL AGENCY ACTION

1. The Respondent are encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (6).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25.
4. If determined to be in violation an Order, Respondent may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26, including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations and replacement of up to 200% of water diverted without right. In addition, Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation."

V. FURTHER INFORMATION

If Respondent has any questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with:

Andrew Dutson  
*Regional Engineer*  
*Eastern Region*  
*Utah Division of Water Rights*  
*318 North Vernal Avenue*  
*Vernal, Utah*  
*(435) 247-1514*

Ben Anderson  
*Distribution Engineer*  
*Utah Division of Water Rights*  
*1594 W North Temple Ste 220*  
*P.O. Box 146300*  
*Salt Lake City, UT 84114-6300*  
*(801) 538-7240*

Dated this 3rd day of October, 2019

A handwritten signature in black ink, appearing to read "Ben Anderson", is written over a horizontal line.

Ben Anderson, P.E.  
Distribution Engineer  
Utah Division of Water Rights

cc: Andrew Dutson, Regional Engineer  
Larris Hunting, Ashley Creek Water Commissioner

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 3rd day of October, 2019, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**Cody Jenkins**  
**3415 West 1500 North**  
**Vernal, UT 84078**

Kelly Horne  
Kelly Horne  
Division of Water Rights  
Field Services Secretary

7002 0510 0002 2228 3754

| U.S. Postal Service  |                             |
|--|-----------------------------|
| CERTIFIED MAIL RECEIPT   |                             |
| (Domestic Mail Only; No Insurance Coverage Provided)   |                             |
| Postage \$   | Postmark<br>Here<br>10/3/19 |
| Certified Fee  |                             |
| Return Receipt Fee<br>(Endorsement Required)   |                             |
| Restricted Delivery Fee<br>(Endorsement Required)  |                             |
| Total Postage & Fees \$  |                             |
| Sent To<br>Cody Jenkins<br>Street, Apt. No.,<br>or PO Box No.<br>STAA 2166<br>City, State, ZIP+4 |                             |
| PS Form 3800, January 2001 See Reverse for Instructions  |                             |